


MEMORANDUM

July 7, 2011

TO: Planning, Housing, and Economic Development Committee

FROM: Jeff Zyontz,  Legislative Attorney

SUBJECT: City of Rockville Annexation Petition (ANX2011-00139) Reed Brothers Property

Staff Recommendation:

Deny the request to rezone the property for residential use at increased density.

Recommend to the Mayor and Council of Rockville an annexation agreement with the petitioner that requires: 1) adequate right-of-way for the Corridor Cities Transitway on the property; 2) streetscaping on the property; and 3) achieving the goals of the Shady Grove Transportation Management District.

Background

The City of Rockville is proposing to annex approximately 4.37 acres of land located at the northeastern quadrant of Fredrick Road (MD355) and King Farm Boulevard/Metro Access Road. The site is currently classified in the TOMX-2 zone in Montgomery County. The zone requires conformance with the numeric limits in the applicable Sector Plan, including floor area ratio (FAR) and the number of dwelling units allowed per acre.

The Shady Grove Sector Plan is the applicable sector plan. The Sector Plan limits the FAR to .75 for non-residential uses and does not allow any dwelling units per acre. The Plan did not recommend residential development because of the site's proximity to the County's solid waste transfer station. Residential development on the property would also cause a limit on the total number of residential units proposed by the Shady Grove Sector Plan to be exceeded. The dwelling unit limit was due to a concern for adequate school capacity.

Under the annexation proposal, the Reed Brothers property would be reclassified to the City's MXTD (Mixed-Use Transit District) zone, which allows a mix of residential and commercial uses. Development on the site is proposed to consist of 417 residential dwelling units and 5,000 square feet of retail space. The property owner proposes structured parking to accommodate the uses. The proposed FAR would be 2.3, with a residential density of 95 dwelling units per acre; both numeric limits are substantially different than allowed by County zoning.

Article 23A, Section 9(c) of the Annotated Code of Maryland provides that no municipality annexing land may, for a period of five years following annexation, place that land in a zoning classification which permits a land use substantially different from the use for the land specified in the current and duly adopted master plan, without express approval of the County Council. The Council cannot prohibit the annexation.

The Rockville City Council will conduct a public hearing on August 1, 2011. The zoning of the Reed Brothers property will be a subject of the public hearing.

County Executive Recommendation

In a June 15, 2011 letter to the Planning Board Chair, the County Executive recommended against the approval of a zoning change to allow residential uses on the Reed Brothers property:

At times we must weigh competing worthy policy goals. While increasing housing near the Shady Grove Metro Station facility seems like the right thing to do, in this case it is not. Construction of housing a mere 200+ feet from the County's only municipal solid waste transfer station and material recycling facility would be a problem.

The County would not place this facility next to such a housing development [as proposed by the annexation petition] if it were locating the facility in the first instance, and it does not make sense to allow high density housing to locate in such close proximity to it after the fact.

Planning Board Recommendation

In its recommendation to the Council, the Planning Board recommended denying the request to rezone the site to the City's MXTD zone for the following reasons:

- 1) the requested zone is substantially different from the Shady Grove Sector Plan recommendation in that the Sector Plan recommended non-residential uses only;
- 2) the proposed density is substantially higher than the density recommended by the Shady Grove Sector plan; and
- 3) residential use of the site would be imprudent given its proximity to the County's Solid Waste Transfer Station; residential uses could jeopardize or limit the operations of a facility that cannot feasibly be relocated.¹

The Planning Board also recommended the annexation agreement include right-of-dedication for the Corridor Cities Transitway, streetscaping, and achieving transportation district management goals.

The Planning Board recommendations were based on testimony received and a Planning Staff memorandum dated June 9, 2011.² The memorandum documents that the Shady Grove Sector Plan's recommendation to prohibit residential uses on the Reed Brothers property and the property adjacent to the Reed Brothers property was thoroughly considered by the Council in 2006. Planning Staff noted the following:

Specifically, the Plan states that "odors emanating from the solid Waste Transfer Station are an additional air quality concern in the Shady Grove Plan Area" (p. 109). Future residential development adjacent to the Solid Waste facility will could [sic] lead to complaints from future residents to either move or reduce functioning aspects of the existing facility.

¹ June 30, 2011 letter from Planning Board Chairman Carrier to Council President Ervin.

² Staff found this memorandum to be particularly thorough.

Shady Grove Advisory Committee Recommendations

The Advisory Committee supports residential uses and increased density of the Reed Brothers property. In their opinion, achieving the 5,500 dwelling units in the plan is unlikely, yet the reason for the Council's decision to remove the possibility of residential uses from the Reed Brothers property was the potential to exceed 5,500 units. The density requested is about equal to the density designated across King Farm Boulevard.

Petitioner's Point of View

Based on conversations with the petitioner's representative and their testimony before the Planning Board, staff would summarize their reasons for changing their zoning as follows:

- 1) Putting housing, particularly housing with a significant affordable component (20%), next to a metro station is the very definition of smart growth.
- 2) The market rate units in the proposed project will be more affordable than in other metro station areas.
- 3) The Sector Plan's goal for housing units will not be achieved, given certain events that have occurred since the adoption of the Sector Plan (e.g., residentially designated sites developed with office, Casey 6 purchased by State and County for service facilities), without expanding the area in which housing is allowed.
- 4) The number of students to be generated is minimal and will not alter the requirements for one elementary school.
- 5) There is existing and planned housing closer to the transfer station.
- 6) The proposed housing across the Metro tract would be closer to the area currently used for yard waste than their proposed project.
- 7) Air quality tests found no detectable odor.
- 8) Noise tests indicated levels generally do not exceed residential noise limits, and the level from Rockville Pike was louder than that from the Transfer Facility.
- 9) There have been no formal complaints about noise or odor from Transfer Facility operations.
- 10) The rate of growth of the Transfer Facility use does not indicate the need for all night operation anytime in the foreseeable future.
- 11) The master plan recommendation to exclude residential uses on their property was a last-minute afterthought and, in any event, the recommendations are out of date and should not be respected.

Staff Comments

If Rockville can change the zoning in 5 years, why not allow a change of zoning now?

The Council lacks the power to disapprove an annexation. The Council can only make sure that the zoning does not change for 5 years if it believes that it is in the public interest to do so. Five years after the City annexes the property, the City can zone the property in any manner. There are 3 reasons for the Council to deny this rezoning:

- 1) The 5 year waiting period may dissuade petitioners from proceeding with the annexation.

- 2) Denial gives the strongest notice possible to the Mayor and Council of Rockville that more housing near the Transfer Facility than recommended in the Shady Grove Sector Plan is a bad idea. The City of Rockville may be persuaded to not change the zoning.
- 3) A lot can happen in 5 years that may result in non-residential development of the site.

Why not support more smart growth?

The County has a number of smart growth areas; it only has one Solid Waste Transfer Facility. There is no doubt that the Transfer Facility is a critical facility that cannot be easily relocated. There is also no doubt that the County has a history of closing or moving facilities based on complaints.³ The petitioners argue that there is no current basis for complaints based on noise or odors. Even if that is true, past performance is some evidence but not a guarantee of future performance.⁴ The fact that there have been no formal complaints concerning the facility does not mean that such complaints could not come in the future.

Was the Sector Plan recommendation to prohibit housing a last minute change that was not thoroughly considered by the Council?

The Planning Board Draft Sector Plan first submitted to the Council would have allowed housing on the Reed Brothers property. Included in the testimony reviewed by the Council when it was deliberating on the Shady Grove Sector Plan was a letter from the Solid Waste Advisory Committee. That testimony noted that housing close to the Transfer Facility was not in the long term interest of facility operations. The PHED Committee discussed this issue at length and after a thorough review, reversed the Planning Board's recommendation. (This review is well documented in the Planning Staff memorandum.) The Council agreed with the Committee. This was not a last minute ill-advised change.

Is the Sector Plan recommendation for the Reed Brothers Property site outdated?

The petitioner argues that other sites in the Sector Plan are closer to the Transfer Facility than their property. Staff does not view any comparison between sites to be relevant.⁵ The sole question for the Council is whether MORE housing near the Transfer Facility is a good idea or a bad idea. Staff, the Executive, and the Planning Board believe it to be a bad idea.

The petitioner argues that air quality tests, noise monitoring results, the lack of complaints, and reduced housing potential in the remainder of the Shady Grove Sector Plan area should warrant a change in the Council's Sector Plan decision regarding the Reed Brothers property.

The Sector Plan was adopted in 2006; the location of the Reed Brothers property relative to the Transfer Facility property has not changed. The Executive disputes the claim that the housing potential in the remainder of the Shady Grove Sector Plan was reduced by recent actions. In staff's opinion, the continued operation of the Transfer Facility makes the Plan's recommendation for no housing on the Reed Brothers property still sound.

³ A composting facility was closed in Fairland. The Rockville Detention Center was moved to Clarksburg. The model airplane park has been relocated twice.

⁴ In the financial world, the well-worn phrase is "past performance is not predictive of future results."

⁵ Given the critical function of the Transfer Facility, it is easier to conclude that the housing recommendations of other sites are wrong than to expand the number of potential residents around the Facility.

Why is the possibility of complaints concerning the Solid Waste Transfer Facility at all troublesome?

The odor and noise analyses by the petitioner go to the issue of justifiable complaints concerning the Solid Waste Transfer Facility. It has been staff's experience in persuading the Council to act that complaints based upon a **perception** of harm no different from complaints based upon actual harm.

Complaints come to the Council even if the offending use was there first.⁶ Residents may complain about anything. It is the Council's role at times to respond to complaints. When a unique and critical public facility is involved, complaint avoidance is a better strategy than complaint response.⁷

Why not support more affordable housing near a Metro station?

The Shady Grove Metro Station is different than other Metro Stations; no other Metro Station has a nearby Solid Waste Transfer Facility. If the question were, "Should the County allow affordable housing near a Solid Waste Transfer Station?", the ethical question would be more obvious.

The excellent operation of the Transfer Facility to date masks potential odor and noise hazards. As a matter of environmental justice, low income populations should not disproportionately bear the burden of environmental risks.⁸ A disproportionate amount of lower income housing next to a Solid Waste Transfer station may be an environmental justice problem to the advocates of that policy.

Should the Council raise any other issue to the attention of the Mayor and Council of Rockville?

The Shady Grove Sector Plan raised concerns about necessary rights-of way, streetscaping, and achieving transportation management district goals. These concerns should be highlighted for Rockville's consideration, as recommended by the Planning Board.

<u>This packet includes</u>	<u>© Page</u>
Planning Board Recommendation	1 – 2
Planning Staff Recommendation	3 – 14
Solid Waste Advisory Committee Letter, 2005	15 – 16
PHED Committee recommendation, 2006	17 – 22
Executive's Recommendation	23 – 24
Shady Grove Advisory Committee Letter, 2010	25 – 26
Notice from the City of Rockville	27 – 35
Draft resolution	36 – 37

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⁶ East Montgomery Village was built and occupied after the Airpark was in operation.

⁷ Other residential units allowed by the Shady Grove Sector Plan are not issues before the Council. The only issue before the Council is whether MORE residents near the Transfer Facility are desirable.

⁸ Environmental justice is a matter of federal law and policy. An essential tenet of environmental justice is to avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations. Federal agencies use the Department of Health and Human Service's definition of poverty to define low income. The fact that the Federal Government uses the poverty standards to define low income is not a bar to considering a disproportionate impact to any disadvantaged population.



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

OFFICE OF THE CHAIRMAN

June 30, 2011

The Honorable Valerie Ervin, President
Montgomery County Council
100 Maryland Avenue, Room 501
Rockville, Maryland 20850

SUBJECT: City of Rockville Annexation, ANX2011-00139, for Reed Brothers Dodge property.

Dear Council President Ervin:

At the regular meeting of the Montgomery County Planning Board on June 16, 2011, we reviewed the City of Rockville annexation petition, ANX2011-00139, for the Reed Brothers Dodge property located within the Shady Grove Sector Plan area.

After the planning staff presentation and comments by the public, property representatives and Executive Branch staff, the Board voted to support the planning staff recommendation and transmit the following comments on the annexation petition:

1. The Montgomery County Council must review this annexation petition prior to action by the City since the proposed residential uses are not recommended for this property in the Approved and Adopted (2006) Shady Grove Sector Plan. To meet the requirements of Article 23-A of the Annotated Code of Maryland, the County Council must expressly approve the proposed zoning change.
2. The County Council should deny approval of the new zoning petition, as allowed under Article 23-A, Section 9 (C) (1) of the Annotated Code of Maryland, since the proposed use is not authorized in the Sector Plan and the proposed density is substantially higher than recommended in the Sector Plan. Further, residential use of this site is not desirable given its proximity to the Solid Waste Transfer Station.
3. Any annexation petition must provide and participate in the following:
 - a. The minimum right-of-way for the Corridor Cities Transitway (CCT) along King Farm Boulevard Extended/Metro Access Road.
 - b. Streetscape improvements along Rockville Pike and King Farm Boulevard Extended/Metro Access Road.
 - c. Meet the goals of the Shady Grove Transportation Management District.

The Honorable Valerie Ervin
June 30, 2011
Page Two

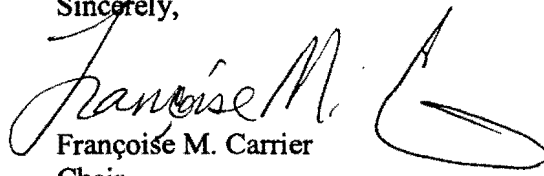
A majority of the Board is not supportive of locating residential development within close proximity to the County's Shady Grove Processing Facility and Transfer Station (formerly called the Solid Waste Transfer Station). We support smart growth development and affordable housing at transit stations; however, the long-term implications of locating residents adjacent to the Transfer Station could ultimately jeopardize or limit the operations of the Processing Facility and Transfer Station. Further, there are legitimate issues regarding odors and noise that currently emanate from the facility, and relocating the facility is not feasible.

During the approval process of the Shady Grove Sector Plan, the Council deliberated whether residential development or non-residential development only was the appropriate use adjacent to the Transfer Station. The Approved and Adopted Sector Plan recommends only non-residential development on the three properties immediately north of the Metro Access Road, including the Reed Brothers Dodge property. We believe that this decision should remain in effect.

Commissioner Dreyfuss supports the annexation petition because he believes there is no substantive difference between residential development on the southern side of the Metro Access Road and such development to the north, where the proposed annexation is located. He also believes that future residents will make individual decisions about whether to live near facilities like the transfer station that may generate noise or odors.

Thank you for opportunity to provide the Planning Board's comments on this annexation petition.

Sincerely,


Françoise M. Carrier
Chair

cc: Phyllis Marcuccio, Mayor, City of Rockville



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #
6/16/11

June 9, 2011

MEMORANDUM

TO: Montgomery County Planning Board

VIA: Glenn Kreger, Acting Chief *JK*
Area 2 Planning Division

Shahriar Etemadi, Planning Supervisor, I-270 Corridor Team
Area 2 Planning Division *[Signature]*

FROM: *NJ* Nkosi Yearwood, Senior Planner, I-270 Corridor Team (301.495.1332)
Area 2 Planning Division

SUBJECT: City of Rockville Annexation Petition ANX2011-00139 for Reed Brothers Dodge property located at the northeastern quadrant of Frederick Road (MD 355) and King Farm Boulevard/Metro Access Road in the Shady Grove Sector Plan area; reclassification from the County's Transit-Oriented Mixed Use (TOMX-2) zone to the City's Mixed Use Transit District (MXTD) zone.

STAFF RECOMMENATION: Approve transmittal of the following comments to the Montgomery County Council regarding City of Rockville Annexation Petition (ANX2011-00139) for Reed Brothers Dodge property.

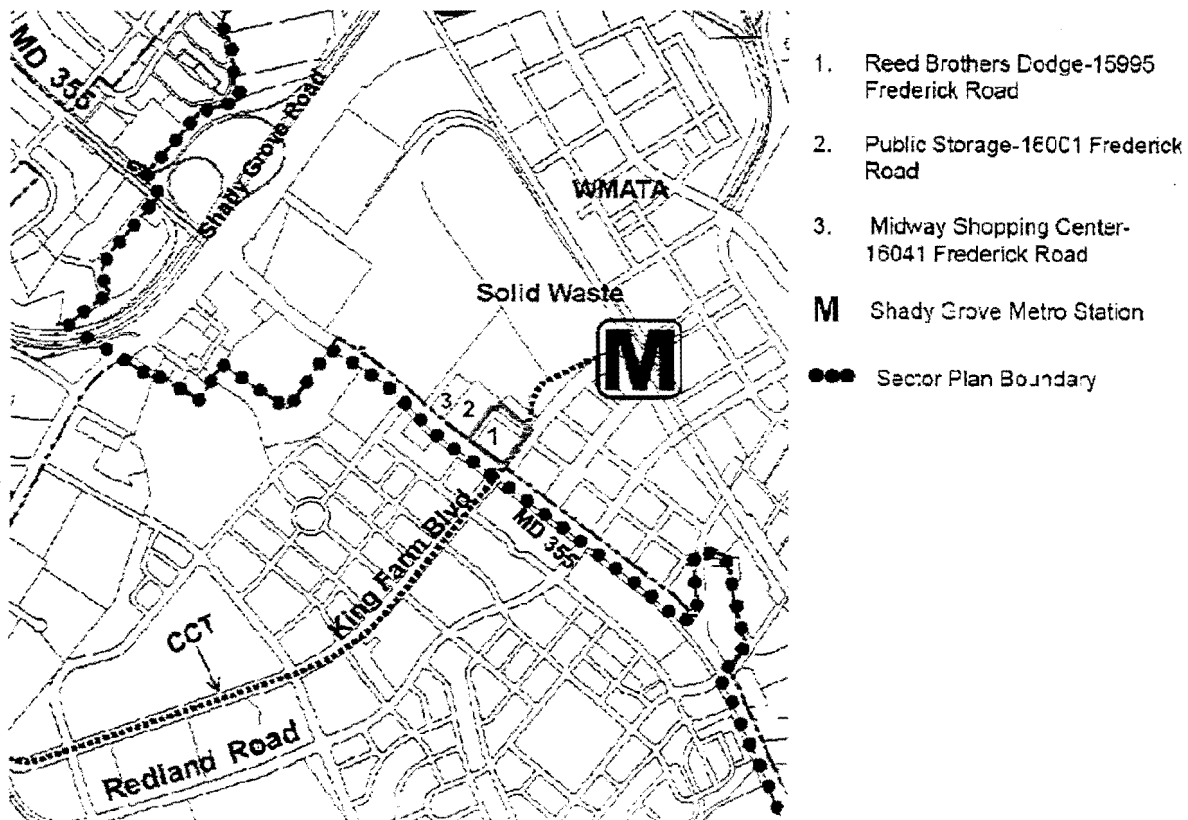
1. The Montgomery County Council must review this annexation petition prior to action by the City since the proposed residential uses are not on this property by the Approved and Adopted (2006) Shady Grove Sector Plan. To meet the requirements of Article 23-A of the Annotated Code of Maryland, the County Council must expressly approve the proposed zoning change.
2. The County Council should deny approval of the new zoning petition, as allowed under Article 23-A, Section 9 (C) (1) of the Annotated Code of Maryland, since the proposed use is not authorized in the Sector Plan and the proposed density is substantially higher than recommended in the Sector Plan. Further, residential use of this site is not desirable given its proximity to the Solid Waste Transfer Station.
3. Any annexation petition must provide and participate in the following:
 - a. The minimum right-of-way for the Corridor Cities Transitway (CCT) along King Farm Boulevard Extended/Metro Access Road.
 - b. Streetscape improvements along Rockville Pike and King Farm Boulevard Extended/Metro Access Road.
 - c. Meet the goals of the Shady Grove Transportation Management District.

BACKGROUND AND LOCATION

The subject property, known as the Reed Brothers Dodge property, is located at 15955 Frederick Road at the northeastern intersection of Frederick Road (MD 355) and the Metro Access Road (King Farm Boulevard extended) in Shady Grove. The property consists of two parcels, Parcel A and Parcel P 137 and comprises a total of 4.37 acres in size. An automotive dealership with surface parking is the existing use on the property. It is in the Transit-Oriented Mixed Use (TOMX-2) zone.

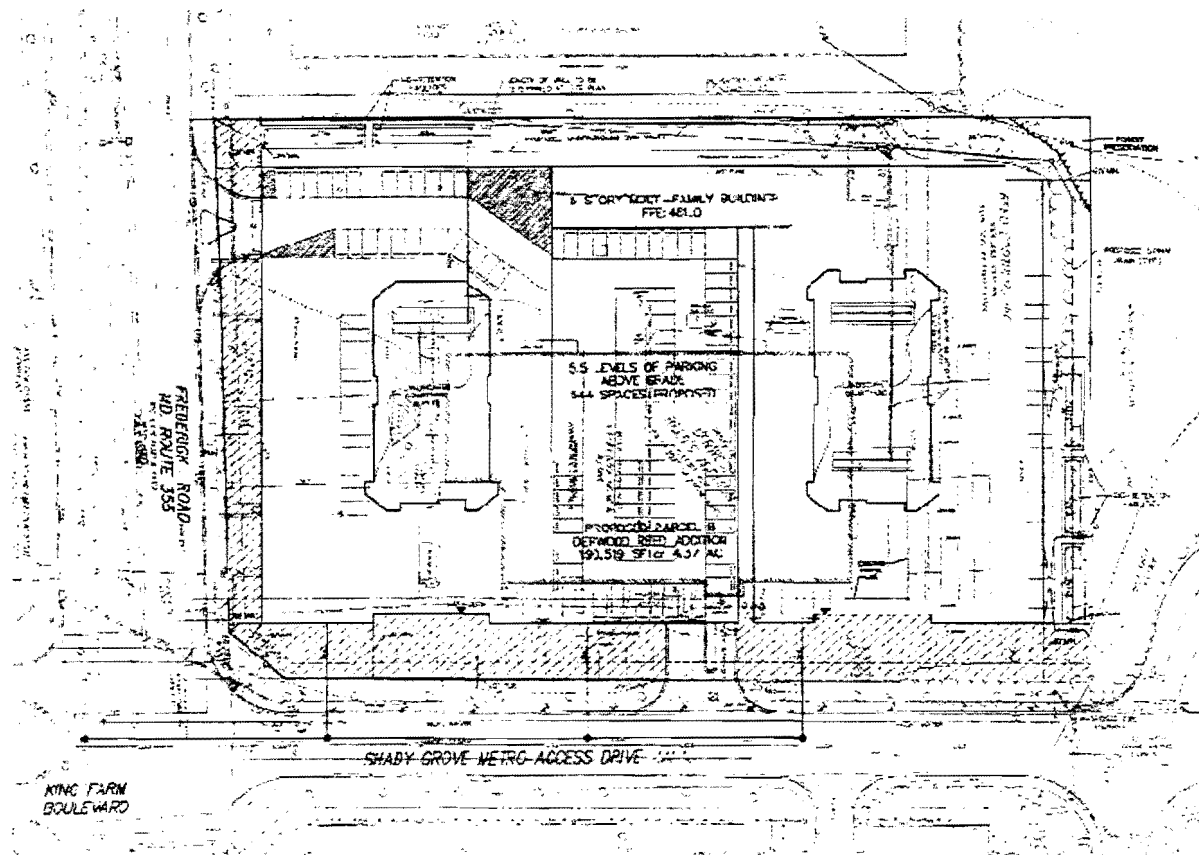
There are two commercial properties to the immediate north, including a storage warehouse and a shopping center. The Montgomery County Solid Waste and Transfer Station is northeast of the subject site, and Washington Metropolitan Area Transit Authority (WMATA) Shady Grove Metro rail yard is adjacent to the Solid Waste facility. Both the solid waste facility and the Metro rail yard are in the Light Industrial (I-1) zone.

The Shady Grove Metrorail Station is further east of the subject site. The King Farm residential development is west of Frederick Road within the City limits of Rockville. CarMax, an automotive sales center, is immediately south of Reed Brothers with other retail and office uses. Properties between King Farm Boulevard extended and Redland Road are in the Transit-Oriented Mixed Use (TOMX-2) zone or the Transit-Oriented Mixed Use/Transferable Development Rights (TOMX/TDR-2) zone. The vicinity map below shows the surrounding properties to the Reed Brothers Dodge property.



ANNEXATION PROPOSAL

Silverwood/Shady Grove, LLC has filed an annexation petition (ANX2010-00139) with the City of Rockville for the subject property. This petition will reclassify the property from the County's Transit-Oriented Mixed Use (TOMX) zone to the City's Mixed Use Transit District (MXTD). The petitioner has proposed a mid-rise multi-family building with structured parking for 417 dwelling units, and up to 5,000 square feet of retail on the site. Below is the preliminary site plan for the project:



Preliminary Site Plan for Reed Brother Dodge

CITY OF ROCKVILLE MAYOR AND COUNCIL

The City of Rockville Mayor and Council introduced an annexation plan for the subject annexation petition on June 8, 2011 (see Attachment 1 for annexation plan). An annexation plan is required by the Annotated Code of Maryland. A public hearing is scheduled for August 1, 2011 with the Mayor and Council.

The City's Planning staff has supported MXTD designation on the subject property since it allows "... residential development and use of the property. This zoning district supports and implements the larger goals of the sector plan, and provides housing opportunity near a transit station. Given the distances of this site from the surrounding Metro rail yard (480 feet), and County transfer station (340 feet), staff feels that these uses will not have negative impact upon the subject property" (City of Rockville staff report, page 7). The City's Planning Commission will also hold a public hearing and transmit their comments to the Mayor and Council.

SECTOR PLAN AND ZONING

The subject site is located within the 2006 Approved and Adopted Shady Grove Sector Plan area in the Metro West neighborhood. The Sector Plan made specific recommendations for the subject property:

- Allow a maximum of 0.75 FAR of mixed use commercial uses without residential development for three properties northwest of King Farm Boulevard.
- Locate non-residential buildings or garages directly adjacent to the Solid Waste Transfer Station or WMATA maintenance yards to create a compatible transition to the proposed mixed use residential areas.
- Planting shade trees adjacent to the Solid Waste Transfer Station and WMATA maintenance yards to increase tree cover that will help clean the air and serve as a visual buffer (p.41).

The three properties referenced in the Plan include Reed Brothers Dodge, Public Storage and Mid-Way Commercial Center. No residential development is recommended in the area that is between King Farm Boulevard, Frederick Road (MD 355), Shady Grove Road and the CSX rail line.

During the Council's review of the Sector Plan, the Planning, Housing and Economic Development (PHED) Committee debated the merits of locating residential development adjacent to the Solid Waste facility. The Planning Board Draft Plan had recommended both residential and non-residential development on the three properties that are north of King Farm Boulevard.

The PHED Committee received written testimony from the County's Solid Waste Advisory Committee (SWAC) objecting to residential development adjacent to the County's Solid Waste facility. SWAC noted that odors emanate from yard waste on the property, and other activities related to the operations on the site may lead to potential complaints from future residents living adjacent to the facility (see Attachment 2 for the letter).

The Committee decided to shift potential residential for the area that encompasses the three properties, approximately nine acres, to the Technology Corridor, while increasing the amount of employment, non-residential FAR, for the subject area. The PHED Committee's position was supported by the full Council (see Attachment 3 for additional background to the Council's decision).

The Plan established 0.75 Floor Area Ratio (FAR) of non-residential development without any residential development for the three properties that are adjacent to the Solid Waste facility in the Metro West neighborhood.

PUBLIC SCHOOLS

The Plan's total residential development of 6,340 dwelling units will require a new elementary school. The preferred elementary school site is recommended for Jeremiah Park on Crabbs Branch Way. The alternative location is Casey at Mill Creek, close to the Town of Washington Grove. The proposed development will exceed the total amount of residential development recommended in the Sector Plan.

Montgomery County Public Schools (MCPS) Division of Long-Range Planning estimates that 417 dwelling units with structure parking would generate approximately 18 elementary school students; 16 middle school students; and 14 high school students. The property is within the Gaithersburg Cluster, and is within the Washington Grove Elementary School, Forest Oak Middle School, and Gaithersburg High School service areas. According to the County's current FY 2011 Subdivision Staging Policy school test, there is currently adequate capacity within the cluster without any restrictions on residential development.

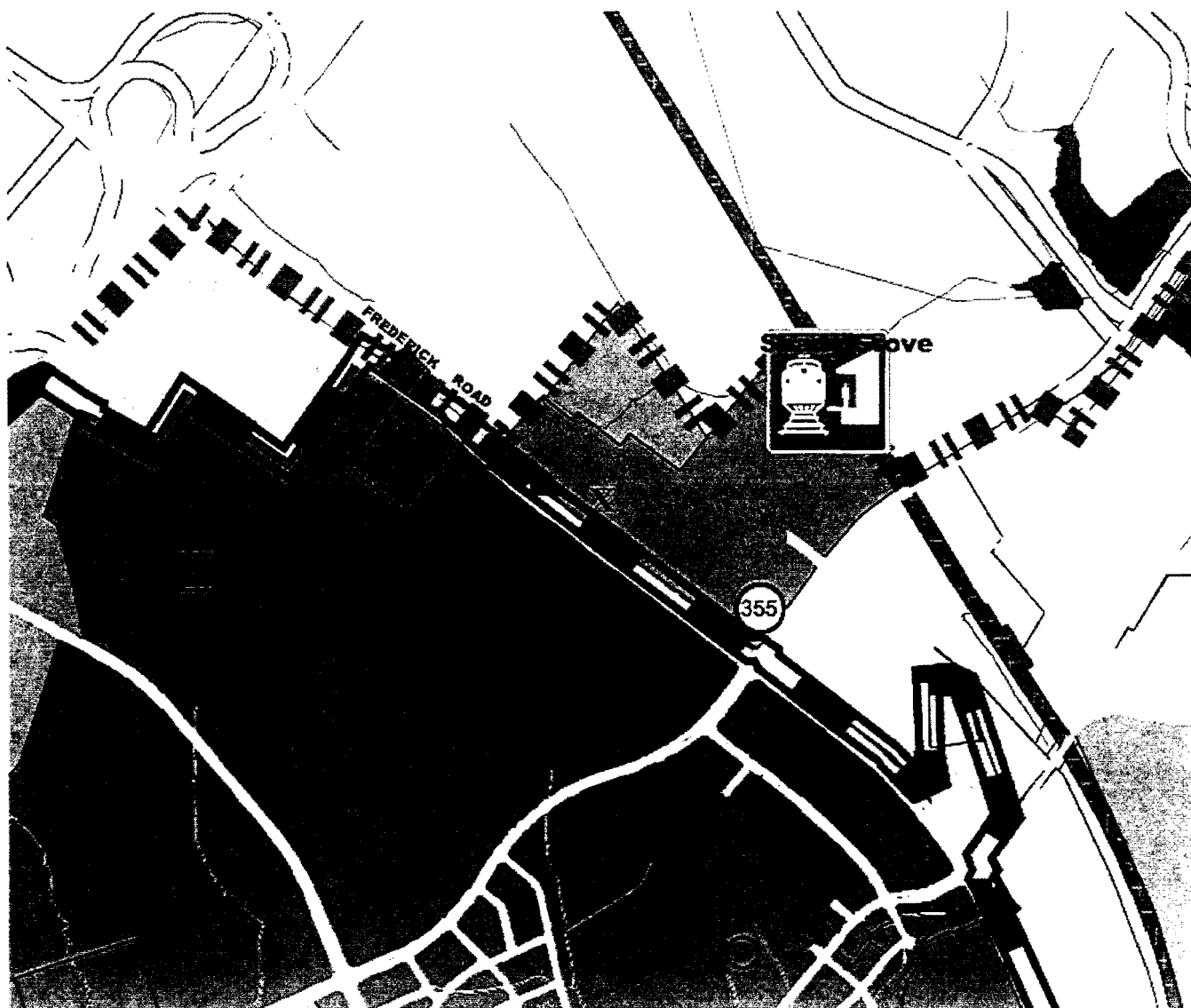
ANNOTATED CODE OF MARYLAND

Annexation rules and procedures are established in Annotated Code of Maryland, Article 23A, Section 19. The Code states that:

The legislative body, by whatever name known, of every municipal corporation in this State may enlarge its corporate boundaries as provided in this subheading; but this power shall apply only to land:

- (1) Which is contiguous and adjoining to the existing corporate area; and
- (2) Which does not create any unincorporated area which is bounded on all sides by real property presently within the corporate limits of the municipality, real property proposed to be within the corporate limits of the municipality as a result of the proposed annexation, or any combination of such properties.

This annexation petition has met these two requirements of the Annotated Code since the property is contiguous and adjoining the City's boundary, and property will be within the corporate limits of the municipality. Further, the subject property is within the Maximum Expansion Limits (MEL). The MEL boundary is indicated by red hash marks on the following map.



X: Reed Brothers Location

Section 19 (o) of the Annotated Code requires the municipality to create an annexation plan. The Annotated Code states that an annexation plan should have the following elements:

- (1) In addition to, but not as a part of the resolution, the legislative body of the municipal corporation shall adopt an annexation plan for the area proposed to be annexed.
- (2) The annexation plan shall be open to public review and discussion at the public hearing, but amendments to the annexation plan may not be construed in any way as an amendment to the resolution, nor may they serve in any manner to cause a reinitiation of the annexation procedure then in process.

(3) (i) A copy of the annexation plan shall be provided to the governing body of the county or counties in which the municipal corporation is located, the Department of Planning, and any regional and State planning agencies having jurisdictions within the county at least 30 days prior to the holding of the public hearing required by this section.

An annexation plan has been introduced by the City's Mayor and Council. The City's planning staff has recommended approval of the plan. A public hearing is scheduled for August 1, 2011 with the Mayor and Council.

Substantially Different Zoning and Land Use

The State Annotated Code places some restrictions on changes in land use and zoning when a property is annexed into a municipality. Article 23 A, Section 9 (C) (1) states that:

... no municipality annexing land may for a period of five years following an annexation, permit development of the annexed land for land uses substantially different than the use authorized, or at a substantially higher, not to exceed 50%, density than could be granted for the proposed development, in accordance with the zoning classification of the county applicable at the time of the annexation without the express approval of the board of county commissioners or county council of the county in which the municipality is located.

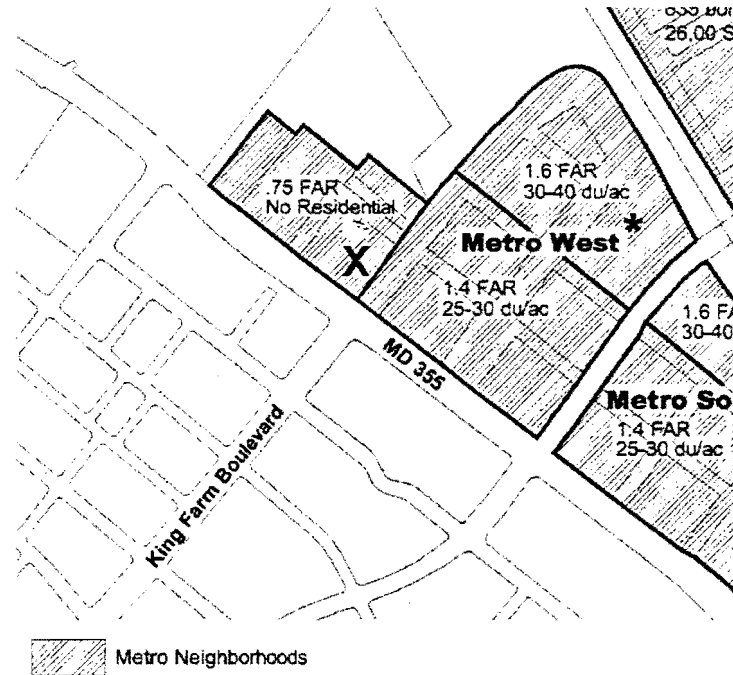
Section 9 (2) of the Annotated Code further states that:

(2) If the county expressly approves, the municipality, without regard to the provisions of Article 66B, § 4.05(a) of the Code, may place the annexed land in a zoning classification that permits a land use or density different from the land use or density specified in the zoning classification of the county or agency having planning and zoning jurisdiction over the land prior to its annexation applicable at the time of the annexation.

The land uses permitted in the City's Mixed Use Transit District (MXTD) are similar to the County's Transit-Oriented Mixed Use (TOMX-2) zone. Both zones are intended for transit station areas where intense mixed-use development is recommended, including residential development. The MXTD permits buildings up to 120 feet in height, while the TOMX-2 building heights are established via the applicable sector plan.

Without the express approval of the County Council, the proposed annexation petition would be delayed for five years since it does not meet the standards established in Article 23 A, Section 9 (C) (1) of the Annotated Code of Maryland. The Shady Grove Sector Plan prescribed 0.75 FAR of non-residential development only, while the annexation petition will permit residential development. Residential uses are not authorized on the subject site in the Sector Plan, although it is permitted in the zone. The total gross square feet of the preliminary site plan is 438,710 square feet or 2.30 FAR, and the development is 95 dwelling units per acre (DUs/acre). The overall development is therefore substantially higher than the FAR authorized in the Sector Plan.

The Sector Plan density recommendation illustrated below clearly shows 0.75 FAR and no-residential on the three properties that are north of King Farm Boulevard, including the Reed Brothers Dodge property.



Shady Grove Sector Plan-Metro West Density Recommendation

ENVIRONMENT

The environmental objectives in the Shady Grove Sector Plan include creating a green network of urban parks and open spaces; retaining existing green infrastructure; mitigating negative environmental impacts, such as noise; and developing strategies to reduce air pollution and odors. There are no streams, wetlands or forest on the subject site.

The Sector Plan notes that excessive noise is a significant issue within the Plan area. It supports “noise-compatible site design along Shady Grove Road, MD 355, Metro and CSX rail lines, the Solid Waste Transfer Station, and Roberts Oxygen” (p.109).

The Plan acknowledges the importance of the Solid Waste Transfer Station and “... the need to maintain its current location due to its use of the rail system for exporting solid waste. Its impacts on existing and proposed residential communities should be mitigated” (p.55). The Plan further recommends to work ... “with the Solid Waste Transfer Station to control odors by eliminating or relocating its yard waste processing area or through other innovative measures” (p.109).

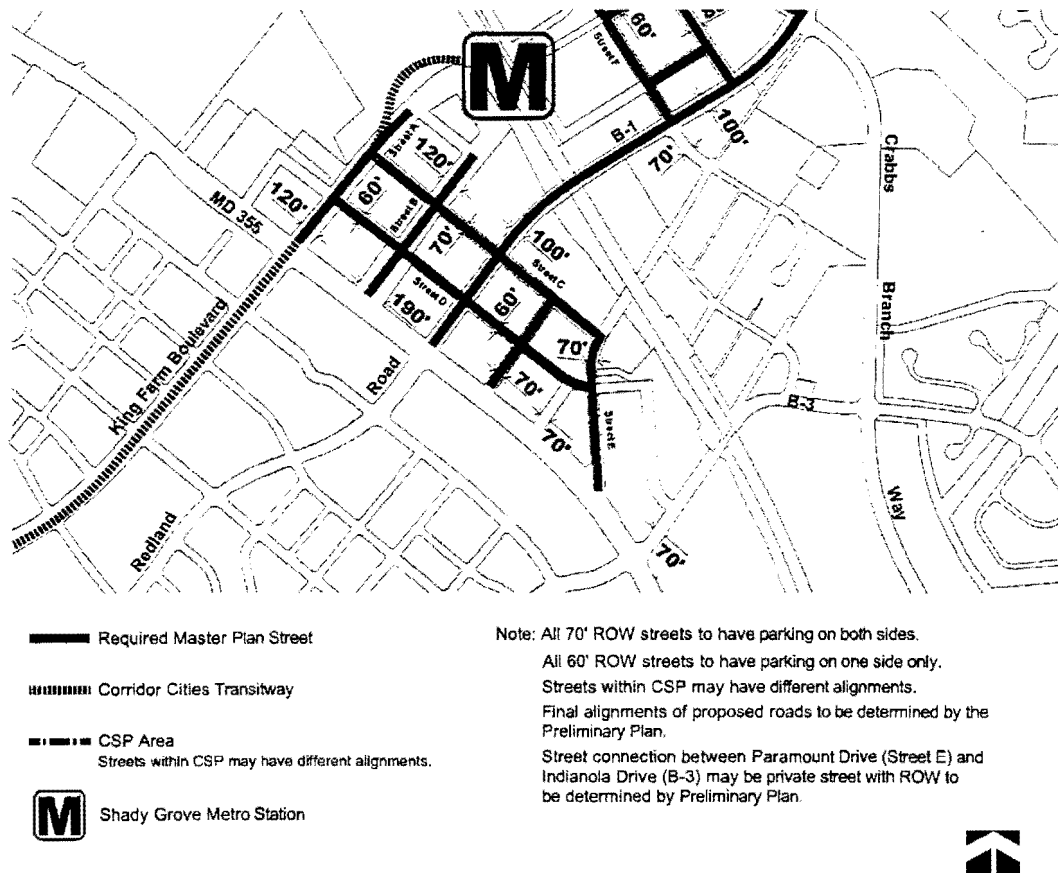
Specifically, the Plan states that "odors emanating from the Solid Waste Transfer Station are an additional air quality concern in the Shady Grove Sector Plan area" (p.109). Future residential development adjacent to the Solid Waste facility will could lead to complaints from future residents to either move or reduce functioning aspects of the existing facility.

TRANSPORTATION

The subject property fronts onto Frederick Road (MD-355) and the Metro Access Road/King Farm Boulevard Extended. This segment of Frederick Road is classified as a major highway with a 120-foot right-of-way. The Sector Plan envisions this segment of MD 355 between Indianola Drive and the Solid Waste Transfer Station to be transformed into an urban boulevard. This entails "a median, requiring slower speeds, enhanced with streetscape and emphasizing pedestrian safety and access" (p.79).

The petitioner has not submitted a traffic study or statement to evaluate the impacts of additional residential development on the transportation network. Staff recommends that the petitioner should submit a study to the City and Montgomery County prior to City's public hearing on the annexation.

A series of new commercial business streets are recommended in the Metro West neighborhood. King Farm Boulevard Extended/Metro Access Road (B-4) is identified as "Street A" and recommended for a 120-foot right-of-way. The recommended right-of-way for King Farm Boulevard extended/Metro Access Road (B-4) must be implemented via the annexation petition. The proposed public street network is illustrated below.



Street network in the Metro West neighborhood

Streetscape

The Sector Plan's streetscape plan recommends a new linear park along the Metro Access Road. The Plan recommends to "create an extensively landscaped boulevard that leads to the Metro station. It should reflect the 'regreening of Shady Grove' theme by establishing a garden character in the medians. Seating areas and other amenities should be provided within median areas that are over 50 feet wide to create outdoor places" (p.89).

The Plan also notes that "all development shall participate in construction or funding adjacent roadway improvements along their frontage. Provision of new local streets within Metro Neighborhoods are primarily the responsibility of new development" (p.81). The future redevelopment of the property must provide the recommended streetscape improvements.

Corridor Cities Transitway

The right-of-way for the Corridor Cities Transitway (CCT) is along King Farm Boulevard Extended/Metro Access Road. The CCT is proposed as either a light-rail transit or bus rapid transit system that will connect Shady Grove to Clarksburg. The annexation petition must reserve the recommended right-of-way along King Farm Boulevard Extended/Metro Access Road.

Bike Network

Two Class I Shared Use Paths (SP-64) and (SP-66) are recommended for the entire length of Frederick Road in the Plan area, and the Metro Access Road, respectively.

COUNTY REVENUE IMPLICATIONS

Local government revenues are tied to geographic boundaries of a jurisdiction. The chart below shows the 2010 tax rates that the property owner currently pays to the County. A portion of this revenue will be lost when the property is annexed into the City of Rockville.

2010 Rates		Reed Brothers Dodge
Appraised value of properties		\$4, 677, 500
Assessed value divided by 100		\$46, 775
Multiplied by total weight tax rate		0.904
Total annual tax paid to Montgomery County		\$42, 284.60
Recreation Tax	0.018	\$841.95
Storm Drainage Tax	0.003	\$140.33
Metropolitan Tax	0.045	\$2, 104.88

Source: Montgomery County Planning Department, Parcel Snapshot 2011 1st Quarter
Montgomery County Finance Department 2010 Levy Year Real Property Tax Rate Schedule
www.montgomerycountymd.gov/content/finance/CountyTaxes/10RealPropertyTaxRates.pdf
Montgomery County Finance Department, Chief Economist David Platt

COMMUNITY CONCERNS

The annexation petitioner has met on several occasions with community representatives, including the Shady Grove Sector Plan Advisory Committee. The Advisory Committee has supported residential development on the Reed Brothers site because it will provide additional housing in close proximity to the Metro Station (see Attachment 4 for the Committee's letter).

CONCLUSION

The petition proposes a use that is substantially different than the use authorized in the Approved and Adopted Shady Grove Sector Plan. Further, the overall development density is substantially higher than the Plan's recommendation. This petition is not consistent with Article 23 A, Section 9 (C) (1) of the Annotated Code of Maryland. Staff believes that it is imprudent to locate new residential development near a facility that generates undesirable noise, odors, and truck traffic. We therefore recommend that the Montgomery County Council should not grant the zoning request.

NY:ha: M:\Shady Grove\Reed Brothers Annexation.docx

Attachments

1. City of Rockville Annexation Plan
2. Montgomery County Solid Waste Advisory Committee letter
3. Council staff report to the County Council
4. Shady Grove Advisory Committee letter

ATTACHMENT 2

D PH 11/4/04
SHADY GROVE SP
2 ENV & ENERGY



MONTGOMERY COUNTY
COUNCIL

205 JUN -6 PM 1:46

SOLID WASTE ADVISORY COMMITTEE

January 5, 2005



012837

The Honorable Thomas Perez
President
Montgomery County Council
100 Maryland Avenue
Rockville, Maryland 20850

Dear Mr. Perez:

The Montgomery County Planning Board has approved the Shady Grove Sector Plan envisioning high density residential housing abutting the existing Solid Waste Transfer Station complex. The Solid Waste Advisory Committee (SWAC) has some compelling concerns if the Sector Plan is implemented as approved by the Planning Board.

The Transfer Station and Recycling Center play fundamental roles in the County's overall Solid Waste Management Plan and have been at their current location for more than 20 years. Developing high density residential housing adjacent to the Transfer Station will invariably lead to public complaints and appeals to relocate the facility. Relocating the Transfer Station is not an option in terms of cost, traffic and logistics. Other factors to consider when visualizing high density residential housing bordering the Transfer Station include:

- The Transfer Station operates seven days a week and its permit mandates that all solid waste be containerized and removed from the facility before it begins operations the following morning. Although the facility generally finishes this laborious task in the late evening hours, the permit allows the facility to operate 24 hours daily if required.
- Approximately six months of every year the Transfer Station receives substantial quantities of yard trim. The Transfer Station can become quite odorous during the peak season (spring) when yard trim may be five or six days old when it arrives at the facility. Although the County is in negotiations with the Washington Suburban Sanitary Commission to purchase some land on Gude Drive to use for a yard trim receiving and processing facility before shipping it out for recycling, the sale has not been finalized. If the sale goes through, the land will require some site modifications before it can be used for this purpose.
- Historically, people tend to complain when an industrial operation is located next to residential housing. The Transfer Station can be a source of dust, noise and litter from vehicles and general operations.

(31)

The Honorable Thomas Perez

January 5, 2005

Page Two

In summary, SWAC does not support the Planning Board's Shady Grove Sector Plan to build residential housing adjacent to the Transfer Station in Derwood, Maryland. However, if the Plan is approved as submitted, SWAC recommends that a buffer zone with a sufficient barrier of trees be introduced between the Transfer Station industrial site and the proposed residential housing to minimize any future animosity towards the Transfer Station.

We hope you will incorporate our recommendation to include a buffer zone into the approved Shady Grove Sector Plan. Please feel free to contact SWAC if you have any questions concerning this recommendation.

Sincerely,



Denise F. Hawkins
Chair

cc: Arthur Holmes, Jr., Director, DPWT
Arthur G. Balmer, Chief, DSWS
Aron Trombka, Legislative Analyst, MCC
Marlene Michaelson, MCC
MCC PHED Committee Members

18

16

32

The Montgomery County Police Department has been engaged in a site selection search for a police station in the 6th District adjacent to the Shady Grove Sector planning area. The police department will consider the provision of a police facility within the planning area, co-located with the Fire and Rescue facility.

V. LAND USE: SPECIFIC AREA AND PROPERTY RECOMMENDATIONS

A. Derwood Communities

Committee Recommendation: Support Plan recommendations with some clarifications and editorial changes.

Page in Sector Plan: 19-23

Existing Zoning: Mix of Residential zones including RE-2, R-200, R-90 and PD-5

Recommended Zoning: No change in zoning.

Plan Recommendations: The Plan does not recommend zoning or land use changes. The Plan's recommendations are designed to create compatible land uses and patterns, establish public facilities, provide convenient access to the Metro station and minimize traffic congestion.

Testimony: The testimony the Council received regarding the Derwood Communities was not about specific Sector Plan recommendations for this area. Rather, the testimony expressed the resident's concern that the proposed density surrounding the Metro station would negatively affect their communities.

Committee Recommendations: The Committee recommends the following editorial changes: revise the third bullet on page 21 under "Community Concerns" by explaining the meaning of the phrase "works for residents"; and modify the final bullet on page 23 under "concept" that "trip mitigation" is not the primary or sole way pedestrian-friendly intersections are encouraged.

B. Industrial Core

Solid Waste Transfer Station

Committee Recommendation: Support efforts to relocate yard waste processing activities. Add language to the Plan proposed by Planning Staff to further mitigate the impact of the solid waste facilities. The majority recommends shifting residential units away from the area closest to the Transfer Station and replacing them with jobs shifted from the technology corridor. (See discussion under Metro West below.)

Page in Sector Plan: 42 and 103

Acres: 52 (combined with WMATA maintenance yard)

Existing Zoning: I-1

Recommended Euclidian/Floating Zoning: I-1

Plan Recommendations: The Sector Plan places a garage and a stream valley buffer area between the Transfer Station and the residential uses. It also recommends the following:

- relocating the yard waste functions from the transfer station to a more appropriate site to reduce truck traffic and odors associated with the outdoor trash collection; and
- introducing measures to further reduce noise, odors, and truck traffic, improving compatibility with future residential development of the Metro Station area

Testimony: The Shady Grove planning area includes the Solid Waste Transfer Station and the Recycling Center. The Council received a letter from the Solid Waste Advisory Committee (SWAC) questioning the wisdom of a large increase in residential units so close to these facilities (see C31-32). SWAC believes that developing high density residential housing adjacent to the Transfer Station will lead to public complaints and appeals to relocate the Transfer Station, which they believe is not an option due to cost, traffic and logistics. Some of their concerns are that the facility is allowed to operate 24 hours a day, seven days a week (although it usually does not operate 24 hours a day), the facility can become odorous during its peak season (spring) when it holds decomposing yard trim, and the facility can be a source of dust, noise and litter from vehicles and general operations. If the Council supports the Plan recommended increases in residential density, SWAC recommends that a buffer zone with a sufficient barrier of trees be placed between the Transfer Station and any residential housing. In addition to SWAC's letter, the Council received a letter from the Upcounty Citizens Advisory Board expressing their concern about mitigating odor and noise problems from the transfer station. Mayor Sidney Katz (City of Gaithersburg) asked the Council to consider relocating the Transfer Station because it is incompatible with the proposed residential uses for a Metro station policy area.

Committee Discussion: The Committee discussed the potential impact of the Transfer Station on the adjacent community. The Committee does not believe that it will be possible to relocate the Transfer Station and the Plan should clearly indicate this so that future home buyers who consult the Sector Plan are not misled.

The Plan should also expand upon those actions that can be taken to minimize the impact of this facility on surrounding development. The Committee supported minor changes to the Plan including recommendations planting additional shade trees to serve as a visual buffer, providing cut-off lighting fixtures to improve compatibility with proposed residential units, and locating non-residential buildings or garages directly adjacent to the Transfer Station or WMATA maintenance yards in order to create a compatible transition to the proposed mixed-use residential areas.

The Committee learned that the yard waste processing activities at the Transfer Station generated most of the odor and that the Department of Public Works and Transportation (DPWT) is currently looking at options to relocate these activities. Attached on C33-38 are maps of the prime candidate site for relocation and the Project Description Form (PDF) which funds the planning of various aspects of improvement to Transfer Station operations and facilities, including the relocation of the yard waste processing activities. DPWT has identified 700 Gude Drive as the prime candidate site for relocation, but the Council has not approved this, or any other, specific site. To date, the only approved funds are for planning. The specific time frame for actual relocation is uncertain until a CIP amendment to fund the relocation is approved. The Committee supports the relocation to minimize odors for new and existing residents.

A majority of the Committee also supported shifting the residential units that are closest to the Transfer Station and replacing them with jobs provided from the Technology Corridor. This shift is discussed further under Metro West below.

2. WMATA Maintenance Yard

Committee Recommendation: Support Sector Plan recommendations.

Page in Sector Plan: 42, 103.

Acres: 52 (combined with the Solid Waste Transfer Station)

Existing Zoning: I-1

Recommended Euclidian/Floating Zoning: I-1

Recommended: 91,035 SF

Plan Recommendations: The Plan recommends encouraging noise mitigation measures on this and adjacent sites, providing expansion for storage, track, and maintenance functions within the existing property, and permitting additional Metro parking within the maintenance yard.

Testimony: None

C. Metro Neighborhoods

The Metro Neighborhoods are envisioned as an urban village, a place that provides vitality, convenience, and a human scale of development. The Plan states that it should become a residential mixed-use area, with pedestrian-oriented characteristics, and with some office and community-servicing retail uses, and recreational areas providing a focus for community life and services. The Plan recommends achieving a mix of residential unit types. Density steps down on the station's east side for a compatible transition to Derwood's nearby residential communities. The Metro Neighborhoods comprise four areas: Metro West, Metro South, Metro North, and Metro East/Old Derwood. Each is discussed below.

Testimony: Numerous individuals and civic groups wrote letters expressing general opposition to the proposed number of residential units in the Metro Neighborhoods. They think that the proposed density is too great. The Council also received letters from a few individuals and groups that expressed general support for the proposed density. In the discussion of the individual properties which appears below, there were several requests for increases in density. Since the Committee's view on each of these requests was identical, it is summarized here.

Committee Recommendation: The Committee considered at length whether to support the proposed decreases and increases in density. Since the primary objection to the densities in the Plan was the impact on public facilities and traffic, the Committee significantly strengthened the staging recommendations to assure that development would not proceed until the facilities were available and traffic mitigation strategies in place and demonstrated to be working. These staging requirements could prevent these properties from achieving full build out at maximum density. The Committee believed that a staging approach was preferable to decreasing density in an area directly adjacent to a Metro station.



The Committee considered several proposals from property owners to increase the densities in different Metro neighborhood properties. While some Committee members thought that certain of the requests could be accommodated from a land use perspective by increasing units per acre or height, the Committee was unanimous in its view that the total number of residential units should not exceed the amount recommended in the Planning Board Draft due to the school capacity issues discussed earlier in this memorandum. Therefore the Committee agreed not to increase densities unless it could identify an offsetting decrease elsewhere in the planning area. The Committee did consider various options for shifting residential densities and the majority recommends moving the residential units closest to the Transfer Station to an area outside the Metro West neighborhood.

1. Metro West

Committee Recommendation: Shift 340 residential units from the Metro West properties near the Solid Waste Transfer Station to Casey 7 or Metro North/ Jeremiah Park. Shift 447 jobs from properties along Shady Grove Road to the Metro West properties, resulting in a commercial density of 0.75 FAR.

Page in Sector Plan: 35; map on C38.

Acres: 38

Existing Zoning: I-1

Recommended Euclidian Zoning: Transit Oriented Mixed-Use (TOMX) Zone

Recommended Density: 1,580 dwelling units (35-60 units/acre); 830,965 SF of retail; 1.5-2.0 FAR.

Plan Recommendations: The Metro West neighborhood is the heart of the envisioned urban village. The Plan recommends the highest densities, 1.5 to 2.0 FAR, on the west side of the Metro station, to achieve a lively, mixed-use center with a substantially residential character. The Plan also recommends retail and office uses not exceed 30% in order to ensure that residential uses dominate this area. Additionally, the Plan recommends permitting a maximum of 15 stories adjacent to the Metro station, but stepping down to a 4-story edge along Redland Road and MD 355. The Plan recommends providing a variety of open spaces including a 1.5 acre-public park, the Town Square at the Metro station (dedicated to the M-NCPPC), and a 50-foot wide linear park. Additionally, the Plan recommends requiring participation by all new development in the Urban Service District and contribution to funding a public/private community center.

Testimony: Thomas Somerville Co. wants 75 units per acre and more flexibility with the specific size and location of the amenities and parks in this area. Some individuals support a height limit of 8 stories and the concentration of residential development here.



	Units Per Acre without MPDU Bonus	Total Number Units without MPDU Bonus	Total Number Units with MPDU Bonus
Plan Recommendation	35-60*	1585	1932
Property Owner	75	2812	3430

* Unit per acre range reflects the 1.5 to 2 FAR range permitted.
Unit yield reflects a minimum of 70% housing and a maximum of 30% commercial uses.

Committee Discussion: Metro West is the property that is directly adjacent to Metro and has the greatest potential for absorbing density. The Committee agreed with the recommendation to make this the heart of the urban village and place the highest densities on this property

The Committee discussed the impact of the Transfer Station on surrounding development and the concerns of the Solid Waste Advisory Committee. The majority of the Committee was concerned about the 340 residential units directly adjacent to the Transfer Station and believed they should be moved. To provide an incentive for redevelopment of the property, the majority also believed that it would be necessary to replace any lost residential development with additional commercial development potential. After exploring numerous options to shift the residential and commercial density, the majority of the Committee supported a shift of residential density from Metro West (in the area adjacent to the Transfer Station) to Casey 7 with the provision that these units could also be transferred to Metro North and Jeremiah Park. As discussed in the section on the Technology Corridor below, the Committee also supported moving jobs from the Corridor to Metro West, both to provide an incentive for redevelopment of area adjacent to the Transfer Station and to bring those jobs closer to the Metro Station. The Committee's recommendation does not increase the Plan recommended number of residential units and results in a minor reduction in the number of jobs and therefore does not impact school capacity or other facilities. (Attached on © 39-41 is a memorandum from Park and Planning Department Staff regarding this alternative.)

Councilmember Praisner did not support the shift in residential and commercial development. She believes the residential development proposed for the site is consistent with the residential development across MD 355 (King Farm) and with the goal to add residential development close to Metro. Further she believes that these complex changes to the Planning Board's proposed master plan are unnecessary since there is no significant difference in the impact of the Transfer Station for these proposed units and those nearby.

2. Metro South

Committee Recommendation: Support Plan recommendations.

Page in Sector Plan: 37; map on ©42.

Acres: 25.5

Existing Zoning: I-1/C-3

Recommended Euclidian Zoning: New Transit Oriented Mixed-Use (TOMX) Zone



Recommended Density: 745 dwelling units (35-60 dwelling units/acre); 391,150 SF of retail; 1.5-2.0 FAR.

Plan Recommendations: The Metro South neighborhood is a mixed-use residential area similar in land use character to Metro West. Existing businesses are encouraged to relocate or redevelop in the new development pattern. The Plan recommends permitting a maximum of 8 stories on interior blocks and 4 stories along Redland Road and MD 355. The Plan also recommends providing a variety of open spaces including a 50-foot wide linear urban park and abandoning the dead end portion of Paramount Drive to create a park. The Plan recommends limiting commercial uses to 30% in this area. Additionally, the Plan recommends requiring participation by all new development in the Urban Service District and contribution to funding a public/private community center.

Testimony: Thomas Somerville Co. wants 75 units per acre and more flexibility with the specific size and location of the amenities and parks in this area.

	Units Per Acre without MPDU Bonus	Total Number Units without MPDU Bonus	Total Number Units with MPDU Bonus
Plan Recommendation	35-60*	745	908
Property Owner	75	1372	1674

* Unit per acre range reflects the 1.5 to 2 FAR range permitted.

Unit yield reflects a minimum of 70% housing and a maximum of 30% commercial uses.

Committee Discussion: The Committee considered the requested increase in density but did not believe that the Plan should increase the overall residential density above that recommended in the Planning Board Draft and therefore does not supported the requested increase. The Committee believes that the public open space and amenities will be an essential part of this new community and that the Sector Plan provides an appropriate level of information (and flexibility) relating to these amenities.

3. Metro North

Committee Recommendation: Support the recommended zoning. Indicate that the Library should be provided in Metro North (either on Jeremiah Park or the WMATA site). Shift 340 residential units from the Metro West properties near the Solid Waste Transfer Station, to Casey 7. Provide that these units can also be transferred to Metro North and Jeremiah Park.

The Metro North neighborhood, east of the tracks, includes the Metro property and County-owned land that is currently developed with a Ride-On bus and maintenance facility. The Plan envisions a mix of residential unit types and some office and retail uses primarily located at the Metro station. A public or public/private community center is recommended on this side of the station. The Plan identifies this neighborhood as an appropriate location for



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

June 15, 2011

Francoise Carrier, Planning Board Chair
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20210

Dear Chairman Carrier and Members of the Planning Board:

I am writing to share with you my position on the annexation proposal and land use change for the Reed Brothers site at 15955 Frederick Road (Route 355). The contract purchaser of the site proposes to have the property annexed into the City of Rockville and to develop multi-family housing – a use which is not authorized by the Shady Grove Sector Plan. While I very much support housing and affordable housing in particular, I regret that I cannot support a residential use of this site because of its proximity to the Shady Grove Processing Facility and Transfer Station.

At times we must weigh competing worthy policy goals. While increasing housing near the Shady Grove Metro Station facility seems like the right thing to do, in this case it is not. Construction of housing a mere 200+ feet from the County's only municipal solid waste transfer station and materials recycling facility would be a problem.

Montgomery County's Division of Solid Waste Services makes every effort to maintain a clean and high-quality waste transfer operation. Nevertheless, the Transfer Station produces odors, noise, and dust. Even though trucking operations generally only occur in the daytime, it is not unusual to have operations through the night to address exigent conditions in the County. Likewise, CSX train operations at the facility can run into the night. Population and associated waste and recycling quantities are projected to continue to grow which could require changes to site operations and solid waste handling could potentially expand hours of operation. This is a use that is a fundamental public service and it simply is not susceptible to being relocated. Placing several hundred dwelling units next to and overlooking this operation does not make sense. The county would not place this facility next to such a housing development if it were locating the facility in the first instance, and it does not make sense to allow high density housing to locate in such close proximity to it after the fact.

The plans from the developer call for 417 dwelling units, in two five-story apartment buildings a mere 200+ feet from the Transfer Station operations. This would place residents

Francoise Carrier, Planning Board Chair
Montgomery County Planning Board
June 15, 2011
Page 2

directly within sight and sound of the trash facility. The apartment building would be closer to Transfer Station operations than any other existing or planned residential building in the area. Additionally, the apartments would directly overlook the solid waste facilities. The County Council considered this and rejected it for these reasons when it adopted the Shady Grove Sector Plan.

While I support transit-oriented development and affordable housing throughout the county, the likely future conflicts between the expectations of a residential community and the critical public need for the potential 24-hour per day waste management operations at the Shady Grove Processing Facility and Transfer Station compels me to oppose the proposal to allow multi-family residential use of 15955 Frederick Road.

Sincerely,

A handwritten signature in black ink, appearing to read "Isiah Leggett", with a long horizontal flourish extending to the right.

Isiah Leggett
County Executive

cc: Phyllis Marcuccio, Mayor, City of Rockville
Valerie Ervin, Council President

ATTACHMENT 4

Shady Grove Advisory Committee

Pam Lindstrom (Chair)
421 Gaither Street, Gaithersburg, Maryland 20877
e-mail: pamela.lindstrom@gmail.com

MEMBERS

John Compton	Natalia Farrar
Pat Labuda	Michael McInerney
Connie McKenna	Joe Parello
Brian Pierce	

September 15, 2010

Francoise Carrier, Chair, Montgomery County Planning Board
Nancy Floreen, President, Montgomery County Council
Mike Knapp, Chair, PHED Committee

Subject: Silverwood development within the Shady Grove Sector Plan

Dear officials:

The Shady Grove Advisory Committee strongly supports the sector plan's vision for the Metro station area as a major resource of transit-accessible housing. We are pleased to receive the proposal by Silverwood Investments to develop housing on the Reed Brothers Dodge property at Frederick Avenue and King Farm Boulevard.

The plan gives mixed signals regarding the Silverwood proposal. Housing clearly supports the plan's overall goal. Yet residential development is ruled out on this property. No reason is given. The planning staff and public comment originally supported housing. Removing housing on this site was apparently part of an effort to cap the total housing potential at 5500.

Now we see that achieving 5500 housing units is unlikely. No housing has been built. We share the general eagerness to see development begin according to the plan's vision. We urge the Planning Board and County Council to find an efficient way to allow this development to proceed. A minor master plan amendment is the straightforward way; the process was designed for just this sort of adjustment to respond to a reality not foreseen by the authors of the plan. This change is widely supported and no opposition is anticipated. There must be a way for such small beneficial changes to be made within the County's development approval process.

Though a plan amendment would require action by Planning Board and Council and staffs, it should not be consuming of anyone's time. We realize that Silverwood is asking for an increase in density over the 0.75 FAR in the plan. We do not oppose increased density, though site plan and design considerations may keep the density below the 1.6 FAR they request. The housing designated for other properties may be reduced if officials desire to keep the ceiling of 5500. We do want assurance that the park shown on or adjacent to the Reed Brothers property can be provided.

Our support for the increase in density on this property does not imply we will support increases elsewhere. The densities designated across King Farm Boulevard are 1.4 – 1.6. The same density seems appropriate here.



Finally, the quality of architecture and design for the Silverwood project must be very high. It will be the first prominent property to be developed in accord with the sector plan's vision. It will set a precedent for development of other properties so must achieve a very high standard, both of appearance and function. We praise the developers' inclusion of workforce housing and MPDUs, and hope that sets a precedent, too. We ask the developers to explore other creative ways to provide transit and job accessible housing to middle class families.

We understand the need for efficient processing of this development request. We ask the PHED Committee and Planning Board to respond within a month as to the feasibility of a minor master plan amendment so this project can proceed within the County review process.

Sincerely,

Pamela Lindstrom

cc. PHED Committee members
Council member Andrews
Calvin Nelson
Robert Harris
Rick Lundregan
Dean Mellander, Rockville planner



City of
Rockville
Get Into It

111 Maryland Avenue | Rockville, Maryland 20850-2364 | 240-314-5000
www.rockvillemd.gov

June 28, 2011

The Honorable Isiah Leggett
Montgomery County Executive
Executive Office Building
101 Monroe Street
Rockville, Maryland 20850

Re:	Annexation Application No.	ANX2011-00139
	Property	Northwest corner of the intersection of King Farm Boulevard/WMATA access road and Frederick Road/MD 355 (15955 Frederick Road)
	Applicant	Silverwood/Shady Grove, LLC

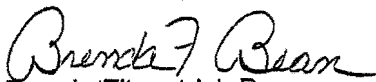
Dear Mr. Leggett:

Enclosed is the City of Rockville Annexation Plan regarding the above referenced Annexation Petition that is scheduled for public hearing before the Mayor and Council of Rockville on August 1, 2011. A Copy of the Notice of Hearing is also enclosed. Since the petition proposes to place the annexed land in a zoning classification that permits a land use or density different from the land use or density specified in the zoning classification of the county, the County Council must provide express approval, per Article 23A of the Annotated Code of Maryland. The City therefore requests a decision on the proposed zoning from the County Council before the August 1, 2011 public hearing, or as soon as it may be scheduled.

A copy of the Annexation Plan has been provided to the following governing bodies: Montgomery County Council, the Maryland Department of Planning, and the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission (M-NCPPC) at least 30 days prior to holding the public hearing, as required by state law.

If you have any questions, please do not hesitate to contact us.

Sincerely,


Brenda Fitzpatrick Bean
Deputy City Clerk

Cc: Rollin Stanley, Planning Director, Montgomery County

Enclosures

27

City of Rockville Department of Community Planning and Development Services
Annexation Plan
June 1, 2011

Subject: Annexation ANX2010-00139

Property Owner: Silverwood/Shady Grove, LLC
c/o Silverwood Investments, Inc.
1925 Isaac Newton Square East, Suite 110
Reston, Virginia 20190

Location of Property: Northwest corner of the intersection of MD355 and King Farm Boulevard/Shady Grove Metro access road, 15955 Frederick Road, Parcel A, Reeds Addition to Derwood; known as Reed Brothers.

Pursuant to Article 23A, Section 19(o) of the Annotated Code of Maryland, the Annexation Plan shall include a description of the land use pattern proposed for the area to be annexed; demonstrate the available land for public facilities; describe the schedule and anticipated means of financing the extension of services. Herewith is a proposed outline for extension of services and public facilities into the areas proposed to be annexed.

The area proposed for annexation is within the City's Maximum Expansion Limits, as established in the Municipal Growth Element, adopted in December 2010, of the City's Master Plan.

Land Use Patterns of Areas Proposed to be Annexed

The area of annexation is approximately 4.37 acres.

The project site is a developed site with an existing 35,096 square foot building that housed a former car dealership. The zoning is TOMX-2 (Transit Oriented Mixed Use) within Montgomery County. The applicant proposes to construct a 417 unit multi-family building with a 544 space parking structure. The applicant has requested a zoning of MXTD-Mixed Use Transit District upon annexation, which is consistent with the current zoning district (TOMX-2).

The property is governed by the County's Shady Grove Sector Plan, which restricts residential use on the property.

The property is surrounded by properties with the County's I-1, TOMX-2, and TOMX-2/TDR zoning designations. The properties to the north are a self-storage use and the County's recycling center. The recycling center is part of the larger County Solid Waste Transfer Station, which is zoned industrial. The property is adjacent to the Shady Grove Metro Station to the north and east. This Washington Metropolitan Area Transit Authority (WMATA) station is the end of the line station and has a large rail yard. The rail yard is about 480 feet from the northern most point of the site. The transfer station is adjacent to the site, but the closest building is 320 feet from the property. A large wooded area separates the property from the rail yard and transfer station. To the west across MD 355 is the King Farm development and a number of multi-family buildings.

The proposed residential use is consistent with the existing residential development across MD 335 and the County's Shady Grove Sector Plan's vision of a mixed use transit oriented development surrounding the metro station. Although the sector plan restricts the residential on the property and those to the northwest, the property has adequate separation of over 300 feet from the Metro rail yard and transfer station buildings.

Adequacy of Public Facilities

Water and Sewer

The Washington Suburban Sanitary Commission (WSSC) currently provides adequate water and sewer services to the properties within the annexation area. Adequate service will continue to be provided by WSSC.

Roads:

The existing public roads are adequate to serve the properties' current uses within the annexation area. The site is currently improved and occupied by a 35,096 square foot auto dealership building. Additional development is proposed for the site and traffic impact will be analyzed as part of the proposed Site Plan application.

Police Services:

Police protection will primarily be provided by the Rockville Police Department in conjunction with the Montgomery County Police Department. County Police

District 1 serves Rockville, though the resources of the entire County Department are available if needed.

Fire, EMS and Rescue Services:

No significant impacts on emergency services are anticipated as a result of this annexation. The Montgomery County Fire and Emergency Services (MCFRS) provides fire protection and emergency response. Rockville does not provide this service as part of municipal government. There are two fire stations in Rockville, and Station 3 serves this area, although other stations are available to supplement service (such as Stations 28 on Muncaster Mill Road in Rockville (unincorporated) and 08 on Russel Avenue in Gaithersburg).

School Services:

No impacts on Montgomery County public schools system are anticipated as a result of this annexation. The Mayor and Council on June 6, 2011, adopted a resolution to modify the Adequate Public Facilities Standards (APFS). The modification would allow the annexed properties to meet the County's requirements for school capacity, and not the more restrictive City requirement. The modification would not require the City requirement to be met provided that less than ten percent of students in the school are from Rockville, and the school is outside Rockville.

Parks and Recreational/Public Libraries:

Parks and recreation facility expansion are not proposed for this annexation. Currently the closest park facilities are located in the King Farm development and included the King Farm Farmstead, Mattie J.T. Stepanek Park and King Farm Park. The County sector plan proposes a town square near the metro to be developed as part of a public/private redevelopment of the Washington Metropolitan Area Transit Authority property. The current and proposed zones have similar requirement for public use space that will be have to be met with any redevelopment. The closet library to the project is the Rockville Memorial Library at 21 Maryland Avenue.

Stormwater Management:

If annexed, all properties must pay an annual Stormwater Management Utility Fee in accordance with Section 19-36 of the Rockville City Code. The City Stormwater Management Utility Fee will replace the Water Quality Protection Charge, an annual fee assessed by the Montgomery County Department of Environmental Protection. City of Rockville properties are exempted from the Montgomery County Water Quality Protection Charge.

Impact on Sensitive Environmental Areas:

Since the site is currently developed with a car dealership, and the site mostly paved, there are no impacts to environmental resources on or immediately adjacent to the site.

Cost to the City on having to provide such services:

The City will not incur any significant increases in operational costs as result of the annexation.

JULY 28, 2010
 DESCRIPTION OF THE PROPERTY OF
 BONNIE L. ADAMS ET AL
 LIBER 12359 FOLIO 477
 AND
 REED BROTHERS, INC.
 LIBER 3893 FOLIO 289
 (9TH) ELECTION DISTRICT
 MONTGOMERY COUNTY, MARYLAND

Being the property acquired in the following two (2) conveyances; 1.) being all of the property acquired by Bonnie L. Adams et al from Mary Jane Gartner, Trustee, by deed dated January 3, 1994 and recorded in Liber 12359 at Folio 477 and being all of Parcel A, Derwood, Reed's Addition, recorded as Plat No. 9337; 2.) being part of the property acquired by Reed Brothers, Incorporated, from Virginia K. Casey a/k/a Virginia Casey Visnich and George Visnich by deed dated August 4, 1969 and recorded in Liber 3893 at Folio 289 all among the Land Records of Montgomery County, Maryland, and being more particularly described as follows:

Beginning for the same at a point marking the southwesterly corner of said Parcel A, Derwood, Reed's Addition, said point marking the common southwesterly corner of Parcel H, Derwood, recorded as Plat No. 12090 among the aforesaid Land Records and also marking the northeasterly line of Frederick Road, Maryland Route 355, as shown on State Road Commission Plat No's. 44321 and 44322; thence leaving said northeasterly line of Frederick Road and running with the common line of said Parcel H and with the property of Montgomery County, Maryland, as recorded in Liber 5718 at Folio 807 among the aforesaid Land Records

- 1.) North 38° 41' 23" East, 550.54 feet to a point; thence running with the property of said Montgomery County, Maryland, and with the property of Washington Metropolitan Area Transit Authority recorded in Liber 12437 at Folio 458 among the aforesaid Land Records
- 2.) South 51° 18' 37" East, 350.00 feet to a point; thence running with the property of Washington Metropolitan Area Transit Authority as recorded in Liber 5498 at Folio 485, the following two (2) courses and distances
- 3.) South 38° 41' 23" West, 505.57 feet to a point; thence
- 4.) South 77° 34' 46" West, 46.25 feet to a point on the aforesaid northeasterly line of Frederick Road; thence running with said northeasterly line of Frederick Road, the following three (3) courses and distances

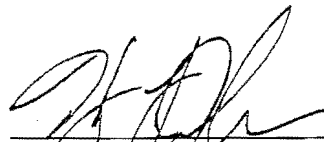
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VIKA Maryland, LLC

- 5.) North 52° 52' 47" West, 20.97 feet to a point; thence
- 6.) South 38° 41' 23" West, 0.37 feet to a point; thence
- 7.) North 52° 50' 40" West, 300.11 feet to the point of beginning containing 190,519 square feet or 4.37372 acres of land.

The undersigned hereby states that the metes and bounds description hereon was prepared by myself or under my direct supervision and that it complies with the Minimum Standards of Practice for Metes and Bounds Descriptions as established in Title 9, Subtitle 13, Chapter 6, Section 8 and 12 of the Code of Maryland Regulations (COMAR) as enacted and amended.

7/28/10
Date


Harry L. Jenkins
Property Line Surveyor
Maryland No. 606



[illegible]

UNITED STATES		CLASSIFICATION	
REPORT NUMBER	REPORT DATE	REPORT TYPE	REPORT NUMBER
AD-700-001	1969-01-01	AD-700-001	AD-700-001
AD-700-002	1969-01-01	AD-700-002	AD-700-002
AD-700-003	1969-01-01	AD-700-003	AD-700-003
AD-700-004	1969-01-01	AD-700-004	AD-700-004
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ACED MATERIALS USED PER LOT	8.000 LBS. OF LIGHT AGENT
TOTAL AREA OF TOWER	10,375 SQ. FT. ON 4,375 ACRES

[illegible][illegible]

RESEARCHER OF THE PAST: JAMES
BORDEN L. ANDERSON, JR.
CIRCA 1950S
AND
NORTH CAROLINA, U.S.A.
LITHO 2001 PULSED 200
OF THE UNIVERSITY OF
NORTH CAROLINA, DURHAM, NC

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ALTA / ACSM
LAND TITLE SURVEY



NOTICE OF HEARING

Notice is hereby given that the Mayor and Council of Rockville, Maryland will conduct a public hearing on Monday, August 1, 2011, at 7:00 p.m., or as soon thereafter as it may be heard, in the Council Chamber, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland 20850 in connection with Annexation Petition ANX2011-00139, Silverwood/Shady Grove, LLC, applicant. Said application requests that the Mayor and Council enlarge the boundaries of the City of Rockville by adding an area of land totaling 4.37 acres of land, more or less, which land is located northeast of the intersection of Maryland Route 355 and King Farm Boulevard/Shady Grove Metro Access Road, and 15955 Frederick Road, further described as Parcel A, Reeds Addition to Derwood, known as Reed Brothers. The proposed zoning under the City of Rockville Zoning Ordinance is TOMX-2 (Transit Oriented Mixed Use).

More detailed information can be found on file in the office of the City Clerk or the Planning Division. Persons wishing to have their names placed on the speakers' list for the Mayor and Council hearing are asked to call 240-314-8280 by 4:00 p.m. on the day of the hearing.

MAYOR AND COUNCIL OF ROCKVILLE

By: Glenda P. Evans, City Clerk

Resolution No.: _____
Introduced: July 12, 2011
Adopted: _____

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS A DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
WITHIN MONTGOMERY COUNTY, MARYLAND**

By: District Council

SUBJECT: Denial of the City of Rockville's request to reclassify the Reed Brothers Property located at the northeastern quadrant of Frederick Road (MD355) and King Farm Boulevard/Metro Access Road in the Shady Grove Sector Plan area; reclassification from the County's Transit Oriented Mixed Use (TOMX-2) zone to the City's Mixed Use Transit District (MXTD) zone (Annexation Petition ANX2011-00139)

Background

1. Article 23A, Section 9(c) of the Annotated Code of Maryland provides that no municipality annexing land may, for a period of five years following annexation, place that land in a zoning classification which permits a land use substantially different from the use for the land specified in the current and duly adopted master plan without express approval of the County Council.
2. The Reed Brothers Property is within the Maximum Expansion Limits of the City of Rockville.
3. The City of Rockville is proposing to annex approximately 4.37 acres of land located at the northeastern quadrant of Frederick Road (MD355) and King Farm Boulevard/Metro Access Road. The site is currently classified in the TOMX-2 zone in Montgomery County. The zone requires conformance with the numeric limits in the applicable Sector Plan, including floor area ratio and the number of dwelling units allowed per acre. The Shady Grove Sector Plan is the applicable sector plan.
4. The Shady Grove Sector Plan limits the floor area ratio to .75 for non-residential uses and would not allow any dwelling units per acre. The Plan did not recommend residential development due to the site's proximity to the County's solid waste transfer station.
5. Under the annexation proposal, the Reed Brothers property would be reclassified to the City's MXTD (Mixed Use Transit District) Zone, which allows a mix of residential and

commercial uses. Development of the site is proposed to consist of 417 residential dwelling units and 5,000 square feet of retail space. The property owner proposes structured parking to accommodate the uses. The proposed floor area ratio would be 2.3 with 95 dwelling units per acre; both numeric limits are substantially different than allowed by County zoning. The rezoning would constitute a land use and density for the property substantially different than that specified for the property in the Shady Grove Area Master Plan and therefore the express approval of the County Council is required to dispense with the current zoning limitations on the property.

6. On June 16, 2011, the Montgomery County Planning Board voted (3-1) to recommend that the Council not approve the City's request to reclassify the site to the City's MXTD (Mixed Use Transit District) zone. The Board's recommendation was consistent with the recommendations of the June 9, 2011 Planning Staff report and the recommendation of the County Executive.
7. On July 11, 2011, the Planning, Housing, and Economic Development Committee reviewed the annexation petition and indicated opposition to the requested reclassification because it would increase residential units near the Solid Waste Transfer Facility.
8. On July 19, 2011, the County Council reviewed Annexation Petition ANX2011-00139 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

Action

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland approves the following resolution:

In accordance with the provisions of Article 23A Section 9(c) of the Annotated Code of Maryland, the District Council does not approve the reclassification by the City of Rockville of the Reed Brothers Property from the County's Transit Oriented Mixed Use (TOMX-2) zone to the City's Mixed Use Transit District (MXTD) zone.

The District Council recommends that the Mayor and Council of Rockville require the development of the Reed Brothers Property to provide:

- 1) adequate right-of-way for the Corridor Cities Transitway on the property;
- 2) streetscaping on the property; and
- 3) a means to achieve the goals of the Shady Grove Transportation Management District.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council